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DISTRICT COURT OF GUAM
TERRITORY OF GUAM

UNITED STATES OF AMERICA,

Criminal Case No. 07-00065

Plaintiff,

vs.

ORDER

JOVENO CATAMA FERNANDEZ, JR.,
and JU MI AN FERNANDEZ,

Defendants.

The court notes that the government has filed an erratum to correct the statutory citation. The indictment erroneously charged the defendants with Marriage Fraud in violation of § 1324(c), instead of the correct subsection 1325(c). However, after researching the matter, the court is unaware of any statutory authority or caselaw permitting the government to correct the indictment in this manner.¹ While the court understands that the government may move to amend the indictment under such circumstances, the method proposed by the government is improper. *See United States v. Lim*, 984 F.2d 331, 337 (9th Cir.1993) (holding that a district court may permit the government to amend the indictment to correct an erroneous statutory citation).

In this instance, the court will treat the erratum as a motion to amend the indictment and will accordingly grant the motion. The government is cautioned that when it files future pleadings, it

¹This is the second time the government has sought to amend an indictment by erratum. The erratum in Criminal Case No. 05-00081 was highly improper in that the government sought to change the statute and offense charged.

1 should be careful to ensure that there is supporting statutory authority or caselaw.

2 **SO ORDERED.**



/s/ Frances M. Tydingco-Gatewood
Chief Judge
Dated: Aug 17, 2007